DOCUMENT RESUME

ED 436 411 SE 062 992

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TITLE	Elementary and Secondary Education: Reconsideration of the Federal Role by the 106th Congress. CRS Issue Brief for Congress.
INSTITUTION	Library of Congress, Washington, DC. Congressional Research Service.
PUB DATE	1999-10-22
NOTE	10p.
PUB TYPE	Information Analyses (070)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	Educational Change; Educational Policy; *Educational Research; Elementary Secondary Education; Government Publications; *Government Role; *Government School Relationship; Laws; Legislation; Politics of Education; Public Policy
IDENTIFIERS	*Elementary Secondary Education Act; *Goals 2000

ABSTRACT

This document provides an overview of primary, cross-cutting issues that are likely to arise as the Elementary and Secondary Education Act; Goals 2000; the Educational Research, Development, Dissemination, and Improvement Act; and the National Education Statistics Act are considered by the United States Congress for reauthorization in the future. The major reauthorization legislation introduced and acted upon in the 106th Congress is described, following the identification of Major Themes of Current Authorizing Legislation. Debate over legislation to reauthorize these programs is focusing on overarching questions concerning the primary purposes of federal aid to elementary and secondary education, its intended beneficiaries and outcomes, and its effectiveness. More specific issues being debated include expansion of school choice options, creation of new authority for state or local flexibility or consolidation of programs into block grants, steps to improve teacher quality and quantity, support for standards-based reform, and funding for improvement of infrastructure--both technology and facilities. (WRM)

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DR. JUNE L. HARRIS
FOR NABSE
1999 DOCUMENT #1

Order Code IB98047

ED 436 411

CRS Issue Brief for Congress

Received through the CRS Web

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Updated October 22, 1999

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Elementary and Secondary Education: Reconsideration of the Federal Role by the 106th Congress

SUMMARY

The authorizations for most programs of federal aid to elementary and secondary education, plus educational research, statistics, and assessment activities, including the Elementary and Secondary Education Act (ESEA); the Goals 2000: Educate America Act (Goals 2000); the Educational Research, Development, Dissemination, and Improvement Act (ERDDIA); and the National Education Statistics Act (NESA), are scheduled to expire during the 106th Congress.

On October 21, 1999, the House passed H.R. 2, the Student Results Act. Primarily, this legislation would amend and extend the multi-billion dollar ESEA Title I program. Also on October 21, the House passed H.R. 2300, the Academic Achievement for All Act (Straight A's Act). This bill permits up to 10 states, and individual LEAs in other states, to administer specified federal education programs under a performance agreement, whereby most program requirements would no longer apply.

The programs authorized by the ESEA, Goals 2000, ERDDIA, and NESA may be divided into four categories: (1) programs for the education of *disadvantaged* children (60% of the $14.5 billion in FY1999 appropriations for these programs); (2) programs that help pay the costs of *systemwide support* services or curricula in priority subject areas (24%); (3) programs that support the development and dissemination of specific educational *innovations*, research, technical assistance, and assessments (11%); and (4) programs to help compensate for the costs of educating children whose parents live or work on *federal property* (6%).

The legislation currently authorizing these programs embodies a strategy of assisting LEAs to improve effectiveness through curriculum content standards; assessments tied to these; performance standards for pupils, schools, and LEAs; sanctions and rewards based on performance; expanded technical assistance; increased flexibility through regulatory waivers and schoolwide programs; and greater targeting on high poverty schools and LEAs. This strategy has been implemented only partially thus far. Curriculum standards and assessments are being developed, although slowly; performance standards are still evolving; and there have been few performance rewards or sanctions. Flexibility has been greatly expanded, but mostly to limit targeting of funds at the school level and expand authority to use federal aid on a schoolwide basis; and allocation formula changes intended to increase targeting on high poverty LEAs have not been implemented.

Debate over legislation to reauthorize these programs is focusing on overarching questions concerning the primary purposes of federal aid to elementary and secondary education, its intended beneficiaries and outcomes, and its effectiveness. More specific issues being debated include expansion of school choice options, creation of new authority for state or local flexibility or consolidation of programs into block grants, steps to improve teacher quality and quantity, support for standards-based reform, and funding for improvement of infrastructure — both technology and facilities.

MOST RECENT DEVELOPMENTS

On October 21, 1999, the House passed H.R. 2, the Student Results Act, legislation to amend and extend Title I of the Elementary and Secondary Education Act (ESEA) and other programs. Also on October 21, the House passed H.R. 2300, the Academic Achievement for All Act (Straight A's Act), permitting up to 10 states, and individual LEAs in other states, to administer specified federal education programs under a performance agreement, whereby most program requirements would no longer apply.

On July 20, 1999, the House passed H.R. 1995, the Teacher Empowerment Act, legislation that replaces the Eisenhower Professional Development program (a program authorized by the Elementary and Secondary Education Act), the state grant program under the Goals 2000: Educate America Act, and the Class Size Reduction program funded under FY1999 appropriations legislation.

BACKGROUND AND ANALYSIS

Introduction

The authorizations of appropriations for most programs of federal aid to elementary and secondary (grades K-12) education, plus federal support of educational research, development, and assessment activities, are scheduled to expire in the 106th Congress. This includes the authorizations for virtually all programs under the Elementary and Secondary Education Act (ESEA); the Goals 2000: Educate America Act (Goals 2000); the Educational Research, Development, Dissemination, and Improvement Act (ERDDIA), which provides for the Office of Educational Research and Improvement (OERI) in the U.S. Department of Education (ED); and the National Education Statistics Act (NESA), which provides for the National Center for Education Statistics (NCES), including the National Assessment of Educational Progress (NAEP). As a result, the Congress is considering whether, and in what form, to extend most federal aid to elementary and secondary education.

This issue brief provides an overview of primary, cross-cutting issues that are likely to arise as the ESEA, Goals 2000, ERDDIA, and NESA are considered for reauthorization. It will be updated regularly, to reflect evolution of the debates over these issues, and action on reauthorization legislation. ***The major reauthorization legislation introduced and acted upon in this Congress is described below, following the identification of Major Themes of Current Authorizing Legislation.*** Other issue briefs and reports, listed at the end of this brief, provide more detailed information on individual major programs and issues.

While the programs and activities authorized under all four of these acts will be discussed in this issue brief, most of the discussions will focus on two of these, the ESEA and Goals 2000, because these contain virtually all of the programs providing financial aid to state and local educational agencies (SEAs, LEAs) nationwide, while the ERDDIA and NESA are much smaller in scale and finance mostly national research, dissemination, data collection, and assessment activities.

Major Themes of Current Authorizing Legislation. All of the legislation addressed by this brief was either initially enacted (Goals 2000) or reauthorized (ESEA, ERDDIA, and NESA) in 1994. This section provides an overview of the major themes of this legislation.

Standards-Based Reform. The 1994 legislation, particularly Goals 2000, sought to direct national and federal attention and resources to standards-based reform, the central tenet of which is that reform of education should be guided by a set of agreed-upon educational goals and standards at each level of governance (nation, state, and local) in the education system and be applicable to all students. Assessments to measure student progress toward meeting the standards and goals should be implemented. Professional development activities should be designed to enable teachers to teach to the standards. (What is described here has also been called *systemic reform* because of its focus on reform of the entire system of education, not discrete parts.) Goals 2000 established 8 National Education Goals; called for the creation of entities to monitor and encourage state and local standards-based reform efforts; and established a state grant program to foster standards-based reform (Title III).

In addition, the IASA sought to create linkages between major ESEA programs and standards-based reform efforts. For example, the IASA attempted to raise the instructional standards of ESEA Title I programs by tying Title I instruction and pupil performance standards to state curriculum content standards and assessments linked to these.

Continued Role on Behalf of Disadvantaged Students, Combined With an Emphasis on the Need for Increased Program Effectiveness. Although many aspects of the 1994 legislation affected **all** students (e.g., standards-based reform), there was a continued focus on disadvantaged students. The IASA reauthorized the ESEA Title I program of supplementary services for educationally disadvantaged students, incorporating several amendments that were intended to increase the targeting of Title I funds on LEAs and schools with the highest concentrations of pupils from low-income families. Even in the Goals 2000 program, which supports standards-based reform for all students, at least half of the LEA subgrant funds must be awarded to schools with special needs, as measured by high numbers or percentages of students from low-income families, or low levels of achievement. At the same time, the IASA addressed a widespread perception that Title I and other ESEA programs aimed at disadvantaged pupils were not as effective as they could or should be through provisions for increased targeting of funds on high poverty areas, and a number of provisions intended to increase the use of effective instructional practices in these programs.

Flexibility. Goals 2000 and the IASA included several statutory provisions providing SEAs, LEAs, and schools with major new forms of regulatory flexibility in federal education programs. These provisions are described, along with their impact thus far and related issues, in a later section of this brief. At this point, it is important to emphasize the perceived linkage between standards-based reform and regulatory flexibility. Standards-based reform is intended to focus primary attention, for purposes of establishing accountability, on educational *outcomes* — the educational goals and performance standards that pupils are expected to meet. Thus, increased flexibility to waive many of the traditional program requirements, which are typically couched in terms of procedures or inputs, is viewed as an important correlate of standards-based reform, to give states, LEAs, and schools the flexibility they may need in order to reach the desired outcomes.

Emerging Areas. Prior to 1994, nearly all of the support for *educational technology* provided by ED was indirect, but the 1994 legislation included substantial new programs explicitly targeted on technology. A new ESEA Title III authorized the Technology Literacy Challenge Fund and Technology Innovation Challenge Grants to increase access to technology in K-12 education, integrate technology into the curriculum, and strengthen teachers' capacity to utilize technology in their instruction. The IASA also emphasized technology applications in other programs. Goals 2000 amended the Department of Education Organization Act to establish an Office of Educational Technology, with responsibility for providing national leadership in the use of technology to achieve the National Education Goals and state education standards.

In 1994, several initiatives to improve the K-12 school *teaching force* were focused on strengthening the preservice training for prospective teachers and the professional development (inservice training) of current teachers. The Goals 2000 legislation included a National Education Goal on teacher education and professional development. It also required participating SEAs to make competitive subgrants to LEAs (or consortia) to improve preservice teacher education and provide sustained professional development for teachers. Under IASA, the Eisenhower Professional Development program was newly focused on improving teaching in all of the core subject areas, while maintaining a minimum level of funding for math and science professional development.

Major Reauthorization Proposals

The major reauthorization proposals introduced to date and acted upon are described below. The Administration's proposal is included, although it has not been acted upon.

H.R. 2, Student Results Act. On October 21, 1999, the House passed H.R. 2, the Student Results Act. Among other provisions, this legislation amends and extends Title I of the ESEA (Education for the Disadvantaged), the Bilingual and Emergency Immigrant Education Acts (ESEA Title VII, Parts A and C), the Magnet Schools Assistance program (ESEA Title V, Part A), the Women's Educational Equity Act (ESEA Title V, Part B), Subtitle B of Title VII of the Stewart B. McKinney Homeless Education Assistance Act, the Jacob K. Javits Gifted and Talented Students program (ESEA Title X, Part B), and various programs for Native Americans (ESEA Title IX), while authorizing a new assistance and flexibility program for rural LEAs. The major provisions of H.R. 2 are described below.

ESEA Title I. Major amendments to ESEA Title I under H.R. 2 include the following:

Accountability, Corrective Action, and Incentives. Title I provisions regarding standards, assessments, and corrective action would be expanded under H.R. 2 — LEAs would be required to offer public school choice options to pupils attending schools in need of improvement or who have been victims of violent crime at school, and the publication of state and LEA "report cards" would be required. H.R. 2 would generally require pupils who have been enrolled in U.S. schools for at least 3 years to be assessed in the English language. States would be permitted to reserve up to 30% of future increases in their Title I grants for performance bonuses to especially effective Title I schools and teachers. Further, states would be required to adopt standards and assessments in science, in addition to reading/language arts and mathematics.

Use of Title I Funds to Hire Teacher Aides. The requirements regarding use of Title I funds to hire teacher aides would be modified to: (1) place a "freeze" on the number of aides which LEAs could hire with Title I funds; (2) require aides to have completed at least 2 years of higher education, or to "have met a rigorous standard of quality that demonstrates, through a formal assessment, knowledge of, and the ability to assist in instructing, reading, writing, and math;" and (3) specify the instructional and other services which aides hired with Title I funds may provide. H.R. 2 would also require states receiving Title I funds to develop plans under which all public school teachers must be "fully qualified" by December 31, 2003.

Allocation Formulas. H.R. 2 provides that an amount equal to the FY1999 appropriation plus 50% of future increases would be allocated under the Basic and Concentration Grant formulas, and the other 50% of future increases would be allocated under the Targeted Grant formula. A hold harmless rate of 85% of previous year grants would be applied to Concentration Grants for all LEAs. The expenditure factor used in all formulas would be increased for Puerto Rico in stages to 85% of the minimum expenditure factor for the states. Finally, H.R. 2 would delete provisions for the unfunded Education Finance Incentive Grant formula.

School Selection. In the selection of schools to conduct Title I programs, H.R. 2 would authorize LEAs to place priority on elementary schools, even among schools in the highest poverty category. In addition, the enrollment size threshold for the current exemption from Title I requirements regarding school selection would be increased from the current 1,000 pupils to 1,500 pupils. The poverty threshold for establishing schoolwide programs would be lowered from 50% to 40%.

Services to Private School Pupils. Increased consultation would be required between public and private school authorities over issues including the selection of third party contractors. H.R. 2 would clarify rules for determining the share of LEA funds to be used to serve private school pupils, and authorize private schools to request from the Secretary of Education a "by-pass" of the LEA if pupils in the private school who are served by Title I fail to make "satisfactory progress."

Use of Funds for Administrative Costs. The bill would place a limit (4%) on the share of Title I grants which LEAs could use to pay administrative costs, and would provide that any increases in Title I funds for state administration over the FY1999 level must be provided through specific appropriations.

Other H.R. 2 Provisions Regarding Title I. H.R. 2 would provide specific authorization for the Comprehensive School Reform Program under Part E of Title I. H.R. 2 would require LEAs to obtain parental consent to the instructional methods used to teach English to limited English-proficient pupils in Title I programs (unless such instruction is "exclusively or almost exclusively" in English).

Bilingual and Immigrant Education. H.R. 2 would modify the ESEA Title VII, Part A Bilingual Education Act, renaming it as the "English Language Proficiency and Academic Achievement Act." The bill would consolidate bilingual education instructional services grants and provide for a transition to allocation of aid via formula grants to states (with discretionary grants within states), rather than the current discretionary grants by ED, when annual appropriations reach $220 million. After this transition, previous recipients of

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discretionary grants would be guaranteed 1 year of funding from the state. Under the formula grant program, states would be required to discontinue funding to LEAs where the majority of students are not attaining English language fluency and reaching state standards after 3 years. LEP students who have attended U.S. schools for 3 consecutive years must be tested in English for reading or language arts, unless a LEA provides a waiver (of up to 1 year) to have the student tested in another language. The requirement that only 25% of funding may be used for special alternative instruction (non-bilingual) programs would be eliminated. The bill would require that LEAs obtain parental consent prior to placement of a limited English proficient child in an English language instruction program.

Bilingual education professional development grants would be consolidated into a single 5-year grant program with an authorization of $60 million for FY2000. H.R. 2 would increase the authorization for the Emergency Immigrant Education Program to $175 million for FY2000; the bill would eliminate the Title VII, Part B, the Foreign Language Assistance Program; and it would create a new Office of Educational Services for Limited English Proficient Children.

Magnet Schools Assistance Program/Public School Choice. H.R. 2 modifies and reauthorizes the Magnet Schools Assistance program. Among the amendments made to the program are the repeal of the Innovative Programs authority (somewhat related uses of funds included in a new Public School Choice authority, see below); a requirement that instruction in funded courses be provided by "fully qualified" teachers (as newly defined in Title I); a limitation that any program funds used for teacher employment be only for "fully qualified" teachers; and the expansion of allowable uses of funds to include capacity building activities, such as professional development. H.R. 2 newly authorizes the Public School Choice Act of 1999, a competitive grant program for SEAs and LEAs to support innovative approaches to public school choice.

Women's Educational Equity. While the Committee-reported version of H.R. 2 would not have reauthorized the Women's Educational Equity Act (WEEA — ESEA Title V, Part B), a provision to do so was added in House floor consideration of the bill.

Rural Education Assistance. Part J of ESEA Title X is rewritten as the Rural Education Initiative Act of 1999. This new program benefits two groups of rural LEAs: those with small enrollments (less than 600), and those with larger enrollments but school age poverty rates of at least 20%. Benefits for the first group of districts include a flexibility authority that permits them to consolidate and use the funds they receive under various formula grant programs, such as the Eisenhower Professional Development program, Class Size Reduction program, and Innovative Education Program Strategies program, for activities they identify that support local or state education reform efforts to improve academic achievement or instruction. In addition, these districts receive funding based on their enrollment for these same uses. The latter group of rural districts, which cannot include districts eligible to be in the first group, receives funds for several specified uses, such as educational technology, professional development, and academic enrichment. Funds for these districts are allocated among states by formula based on the enrollment in all eligible districts. Substate allocations may be either competitive or by formula based on enrollment in the state's eligible districts.

Homeless Children and Youth. H.R. 2 amends and reauthorizes Title VII, Subtitle B of the Stewart B. McKinney Homeless Education Assistance Act. Among the primary changes are a prohibition against funded states segregating homeless children and youth solely on the basis of their homeless status (with an exception for separate schools for the homeless initiated prior to enactment of these amendments); a requirement that schools immediately enroll a homeless child or youth seeking enrollment, even if the records normally required for enrollment cannot be produced (an exception is provided regarding immunization records); clarification that the school of origin is the default interpretation of the "best interest" of the child regarding school placement, unless contrary to the wishes of parents or guardians; a requirement that LEAs seeking funds must conduct an assessment of the educational and related needs of homeless children and youth; and various changes to reporting requirements.

Native American Education Programs. The ESEA includes in Title IX various programs for Native Americans (American Indians, Alaska Natives, and Native Hawaiians), including supplemental elementary and secondary, pre-school, and post-secondary programs. The House Committee's bill reauthorizes the largest Title IX program (formula grants to LEAs), deletes several Indian programs that have not been funded since FY1996, deletes Native Hawaiian programs in Title IX, and consolidates the Alaska Native programs into a single authorization. The bill also reauthorizes two major acts covering Bureau of Indian Affairs (BIA) education programs, while providing for increased tribal control, more choice among BIA-funded schools, and more information on education funding needs.

Gifted and Talented. H.R. 2 would amend the Jacob K. Javits Gifted and Talented Students Education Act of 1994 (ESEA Title X, Part B) to authorize a state formula grant program for teacher preparation and other services for the gifted to be initiated when the annual appropriation first equals or exceeds $50 million. The formula grant would be continued in succeeding fiscal years. Until that level is first reached, the amendments would continue current law's discretionary grant program, adding scientifically based research to authorized uses. The bill also maintains the current National Center for Research and Development in the Education of Gifted and Talented Children and Youth.

Migrant Education. H.R. 2 amends the funding formula for migrant education. For each year, states must receive at least what they received in FY2000 (or for states not receiving funding in FY2000, whatever amount they would have received in FY2000 had their application been approved), but any additional funding must be distributed by formula. The formula for Puerto Rico would be changed to increase the expenditure factor. In addition, H.R. 2 calls on the Secretary of Education to: help states develop an effective method of transferring migrant student records and determining the number of migrant children in each state; develop minimum data elements that are to be maintained and transferred when migrant students move; and encourage states to use electronic student records transfer systems.

H.R. 2300, Academic Achievement for All Act (Straight A's Act). On October 21, 1999, the House passed H.R. 2300, the Academic Achievement for All Act (Straight A's Act). This proposal, sometimes referred to as "Super Ed-Flex," combines elements of traditional block grants and the Ed-Flex program, under which SEAs may waive many requirements under several federal education programs. Under H.R. 2300, *up to 10 states or individual LEAs in non-participating states (if the state does not object)* may choose to administer one or more specified federal education programs under a *performance agreement*, whereby program requirements would no longer apply, except those related to civil rights,

participation of private school pupils and teachers, and certain fiscal accountability and ESEA Title I, Part A requirements regarding curriculum content and pupil performance standards plus assessments linked to these standards. *Funds could be used for any educational purpose authorized under state law.*

Performance agreements under H.R. 2300 would cover a 5-year period, and would include state-established student performance goals incorporating increased performance by all pupil groups while reducing achievement gaps among pupils of different groups. State total grants would be determined under current allocation formulas, but funds could be allocated within states as determined by the state, except that if ESEA Title I, Part A is included, LEAs may not experience a reduction in grants under that program. Requirements regarding the allocation of funds to schools within LEAs, such as the ESEA Title I requirements to target funds on each LEA's highest poverty schools, would no longer apply. States would be allowed to use up to 3% of total grants for administrative purposes (1% of the total if ESEA Title I, Part A is included). States and LEAs substantially meeting their performance goals would be eligible for an extension of their performance agreement; states failing to meet at least 50% of their goals would be subject to a 50% reduction in their federal program administrative funds. States which succeed in reducing by 25% or more the gaps between their highest and lowest scoring population groups in the percentage of pupils at the "proficient" level over the 5-year span of the performance agreement would be eligible for bonus funds.

Key aspects of H.R. 2300 include: (a) authority for participating states to combine funds from different affected programs; (b) certain types of program requirements that cannot be waived under Ed-Flex, such as requirements regarding allocation of funds within states or LEAs, would be waived under H.R. 2300 (with the Title I minimum grant limitation); (c) outcome accountability requirements would be more specific and "strict" than those under Ed-Flex, although still essentially defined by the states themselves; (d) bonus grants would be authorized for states that reduce achievement gaps among different groups of pupils, while states that fail to meet outcome goals would return to the "standard" program requirements and may experience a reduction in state administration funds. Overall, H.R. 2300 embodies a concept of *deregulation*, rather than the regulatory waiver concept embodied in the Ed-Flex program — under H.R. 2300, most federal program requirements *would be waived*, not just made *subject to* waiver.

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